



April 28, 2010

Ms. Marlene Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

ATV Broadcast LLC
11650 N. Lantern Rd Ste. 104.
Fishers, IN 46038
Ph: 317.514.7537
FX: 317.576.8515
E-mail: Ruggtel@aol.com

Re: Retransmission Consent Comments / Docket Number 10-71

Dear Ms. Dortch:

ATV Broadcast is submitting these comments in response to the Commission's Notice in Docket No. 10-71 that is requesting comments on whether any changes should be made to the rules and procedures with respect to the negotiation of retransmission consent agreements between broadcasters and multichannel video programming distributors (MVPD). As explained below, ATV firmly believes, based on 18 years of working with hundreds of broadcasters in negotiating thousands of retransmission consent agreements, that the market based system established by Congress and implemented by the FCC has worked quite effectively, is not broken and should not be changed.

ATV Broadcast had a head start on any group when dealing between broadcasters and their distributors. ATV Broadcast began business in 1983 with two goals, to bridge the gap between the two giant communications industries and to build profitable alliances. In 1992, when the Cable Act was enacted, ATV already had over one-hundred TV stations as clients and had built a working network with every major cable operator and many medium and smaller operators.

After the passage of the Act and the negotiation rules were established, the immediate target was negotiating for cash payment. However, around that time, the heads of many of the large carriers vowed in the press never to pay TV stations a carriage fee. When the negotiations were green-lighted in 1993, the reports of contentious negotiations were cropping up everyday. The ATV negotiators had their share of battles and at the end of the day, it was widely accepted that cable's public statements of non-payment worked and that cable would not pay cash for carriage, and as a result, creative value propositions began to emerge.

In lieu of cash, early Retransmission Consent agreements gave birth to some of the best and most popular cable networks. ATV Broadcast then began negotiating on behalf of its clients for distributing Home & Garden TV, and worked with stations that had an alliance with MSNBC (formerly "America's Talking"), ESPN2, fx, and other "second channel" networks. Additional cashless items like bill stuffers, CNN Headline News local edition, and promotions were seen popping up throughout the country.

Dozens of local news and weather channels are alive today because there were "good actor" broadcasters and cable operators who looked at the 1992 Act as a chance to build something together.

As negotiations continued over the years, the cable networks supplemented their advertising revenues by receiving cash from the MVPD's for the carriage of their programming. Broadcasters too understandably desired to receive cash for carriage of the popular network programming and local news and other programming they broadcast.

During the span of six three - year Retransmission periods, ATV Broadcast estimates that it has either negotiated or consulted with the principal negotiators for over 7,000 carriage agreements covering over 23,000 systems. Out of all this interaction and potential problem cases, the total number of signals that were dropped is 4. The total number of cable subscribers affected were under 70,000. In other words, 99.9% of the carriage agreements were negotiated without reaching impasse and removal of broadcast signals.

In 2008, the negotiations shifted when some individual broadcasters decided it was time to negotiate a fee for carriage from cable. The questions now were, how much? And how far does the battle go?

When the cable cash ceiling finally had been broken, broadcast groups began showing retransmission as a line item.

Like any market-based contract negotiation, the range of fees varies depending on the position of the broadcaster, their cable relationships and the size of cable systems.

During the post 2008 cash era, there have been a few skirmishes that have led to the removal of the broadcast signal, but not in large numbers. In fact there were so few problems that the trade papers were on a retransmission watch and usually disappointed as the parties overwhelmingly would find common ground and settle the carriage negotiations.

Then why is there such a commotion over retransmission in 2010?

Simply put, some high profile retransmission consent agreements resulted in signals being dropped before major events which understandably drew attention from politicians.

Regardless of the fact that the heralded retransmission wars were either extended or settled, the buzz inside the Beltway grew with the premise that the government ought to take a closer look at Retransmission Consent.

Congress was wise when it set up the rules for Retransmission Consent negotiations. The conduct of the negotiations is laid out in easy to understand terms, and when the parties abide by the rules the negotiations go smoothly and are civil. The ATV Broadcast experience of 99.9% is mirrored with the universe when one takes the number of potential negotiations throughout the country and compares that number to the actual TV stations removed from systems.

We should not be surprised that the odds are overwhelmingly in favor of settling on terms because both industries know the importance of each others' existence, what they provide and most of all the people they serve.

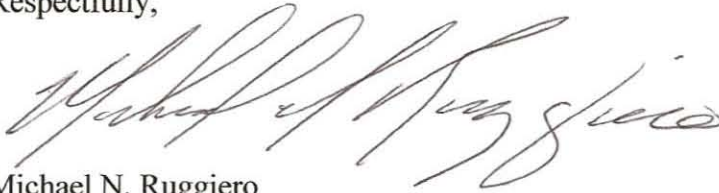
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In summary, the main point being conveyed is that as with any negotiation, the parties need to be permitted to use their positions to negotiate and government interference is not necessary to provide mechanisms that favor one party over the other in their negotiating leverage. The few recent examples do not provide a basis to revamp a market based system that has worked extremely well over the years.

Considering the mathematics of all encounters between broadcasters and their distributors versus the number of actual signals lost, it is easy to conclude that the free market system is working just as Congress intended.

Respectfully,

A handwritten signature in dark ink, appearing to read "Michael N. Ruggiero". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael N. Ruggiero
Chairman